

Before the State of South Carolina
Department of Insurance

In the matter of:)	Order Revoking
)	Adjuster's License
James E. McCarthy, Jr.)	
)	
8431 Scotts Mill Drive)	File Number
Charleston, South Carolina 29420-8329)	1999229-004-021-4-0
)	

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 1999), by the State of South Carolina Department of Insurance upon James E. McCarthy, Jr., a licensed resident adjuster, by both certified mail, return receipt requested, and by regular mail.

By that letter, McCarthy was informed of his right to request a public hearing upon the allegations contained within the letter against him. Further, he was warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident adjuster within the State of South Carolina. Despite that warning, as of February 23, 2000, McCarthy had neither timely answered nor requested a public hearing. On that day, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged and I now find as fact, that while licensed to do business as a resident adjuster within the State of South Carolina, McCarthy failed to notify the Department of a change in his address residential address in violation of S.C. Code Ann. § 38-47-15 (Supp. 1999). S.C. Code Ann. § 38-47-70 (Supp. 1999) provides, "[w]hen the director or his designee determines after investigation that there has been a violation of this title by an adjuster, upon ten days notice, he may impose the penalties provided in Section 38-2-10." Section 38-2-10 (2) states in pertinent part, "the director or his designee shall (a) fine the person in an amount not to exceed two thousand five hundred dollars, or (b) suspend or revoke the license of the person or both." S.C. Code Ann. § 38-47-15 (Supp. 1999) requires that an adjuster "notify the department within thirty days of any change in his [business or residence] addresses."

In accordance with my findings of fact, and considering McCarthy's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that McCarthy has violated S.C. Code Ann. § 38-43-107 (1999), and that his resident adjuster's license should be revoked.

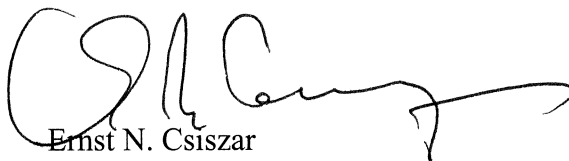
This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-40-10, *et seq.* (1991 and Supp. 1999). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law.

Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that James E. McCarthy, Jr.'s license to do business as a resident adjuster within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which James E. McCarthy, Jr. is currently licensed, through the State of South Carolina Department of Insurance, as a resident adjuster within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "Ernst N. Csiszar", with a long horizontal flourish extending to the right.

Ernst N. Csiszar
Director

February 24, 2000, at
Columbia, South Carolina

Before the State of South Carolina
Department of Insurance

In the matter of:)	
)	Affidavit of Default
James E. McCarthy, Jr.,)	
)	File Number
8431 Scotts Mill Drive)	1999229-004-021-4-0
Charleston, South Carolina 29420-8329.)	
)	


Gwendolyn L. Fuller, personally appeared before me, and, being duly sworn, stated that she, at all times relevant to this Affidavit of Default, was the attorney representing the State of South Carolina Department of Insurance in this administrative action. She further stated the following:


James E. McCarthy, Jr., was served notice at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department of Insurance would request that his license to act as a resident adjuster within the State of South Carolina be summarily revoked by the Director of Insurance for the State of South Carolina in ten days. That notice was served, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 1999) by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." Further, by that letter, McCarthy was also served notice of his opportunity, within ten days, to request a public hearing.

Service of the Notice was effected by certified mail, return receipt requested, and by regular mail, on or about August 23, 1999. The notice was returned by the U.S. Postal Service as "UNCLAIMED". Service was again attempted on October 8, 1999 with no response being received. McCarthy has made no response or request for a public hearing. The time in which to do so has expired. He is now in default.

February 23, 2000
Columbia, South Carolina

Sworn to and subscribed before me
this 23rd day of February, 2000.


Steven R. DuBois, Notary Public
My Commission Expires: May 10, 2009


Gwendolyn L. Fuller
General Counsel

South Carolina Department of Insurance
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